

VA Pamphlet 26-7, "VA Lender's Handbook" is being amended to incorporate the following changes effected by Public Law 106-117, signed on November 30, 1999. The law among other things, made some changes dealing with Loan Guaranty issues. One change was the extension of the expiration date of eligibility for persons who completed 6 years in the Selected Reserve. The new expiration date is September 30, 2007. The law also included a provision that reinstates home loan eligibility for eligible surviving spouses whose remarriages have been terminated. In addition, some issues unrelated to the recent legislation are also addressed in this change.

- a. Paragraph 2.01, is changed by replacing "unremarried" with "unmarried."
- b. Paragraph 2.02g is changed by replacing "October 28, 1999" with "September 30, 2007."
- c. Paragraph 2.02h is changed by replacing "unremarried" with "unmarried."
- d. Paragraph 2.02l is changed by replacing "unremarried" with "unmarried."
- e. Paragraph 2.03 is changed to reflect the current title of VA Form 26-1880, which is Request For A Certificate Of Eligibility For VA Home Loan Benefits. The references to "Unremarried" are replaced by "Unmarried."
- f. Paragraph 2.04 is changed by replacing "October 28, 1999" with "September 30, 2007."

Pages 2-1 through 2-4: Remove these pages and substitute pages 2-1 through 2-4 attached.

By Direction of the Under Secretary for Benefits

Keith Pedigo
Director, Loan Guaranty Service

Distribution: Per VA Forms 7225 and 7225a

CHAPTER 2. THE VETERAN

2.01 VETERAN DEFINED

For VA home loan purposes, a veteran is a person who served in the active military, naval, or air service, and who, except for a service member on active duty, was discharged or released from active duty under conditions other than dishonorable. The [unmarried] surviving spouse of a veteran is also considered to be a veteran for certain benefits under title 38, U.S. Code.

2.02 SERVICE ELIGIBILITY

a. The veteran must have been discharged or released from active duty under other than dishonorable conditions. If the veteran served less than the minimum required period, he or she may be eligible if discharged because of a service-connected disability.

b. The minimum service required during wartime periods is 90 days of active duty. Wartime periods are September 16, 1940 to July 25, 1947; June 27, 1950 to January 31, 1955; August 5, 1964 to May 7, 1975.

c. The minimum service required for the peacetime periods of July 26, 1947 to June 26, 1950; February 1, 1955 to August 4, 1964; May 8, 1975 to September 7, 1980, if enlisted, or to October 16, 1981, if an officer, is 181 days of continuous active duty.

d. For service that began after September 7, 1980 (enlisted), or October 16, 1981 (officer), the veteran must have completed 24 months of continuous active duty or the full period (at least 181 days) for which he or she was called or ordered to active duty, and must have been discharged or released under conditions other than dishonorable. For these veterans, eligibility may also be established if the individual was discharged for a service-connected disability, was discharged for the convenience of the Government after completing at least 20 months of a 2-year enlistment, or completed 181 days of active duty and:

- (1) was discharged because of hardship, or
- (2) was determined to have a service connected, compensable disability, or
- (3) was discharged or released from active duty for a medical condition which preexisted service and has not been determined to be service connected, or
- (4) received an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, or
- (5) was discharged or released from active duty for a physical or mental condition not characterized as a disability and not the result of misconduct but which did interfere with the individual's performance of duty.

e. A veteran who served on active duty during the Persian Gulf War must complete 2 years of active duty or the full period (at least 90 days) for which ordered to active duty, the individual was discharged for a service-connected disability, was discharged for the convenience of the Government after completing at least 20 months of a 2-year enlistment, or completed at least 90 days of active duty and:

- (1) was discharged because of hardship, or
- (2) was determined to have a service-connected, compensable disability, or
- (3) was discharged or released from active duty for a medical condition which preexisted service and has not been determined to be service connected, or
- (4) received an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, or
- (5) was discharged or released from active duty for a physical or mental condition not characterized as a disability and not the result of misconduct but which did interfere with the individual's performance of duty.

The Persian Gulf War period began on August 2, 1990, and will end at a future date to be established by Presidential proclamation or Congress.

f. An active duty service member is eligible only while on active duty and after having served on continuous active duty for at least 181 days (90 days during the Persian Gulf War) unless discharged or separated from a previous qualifying period of active duty service.

g. Members of the Reserves or National Guard who are not otherwise eligible for loan guaranty benefits are eligible upon completion of 6 years service in the Selected Reserve, or upon discharge from the Reserves or National Guard because of a service-connected disability before completing 6 years. An individual must have been honorably released from such service unless he or she continues serving in the Selected Reserve. The Selected Reserve includes the reserve components of the Armed Forces, the Army National Guard and the Air National Guard. Eligibility for these individuals will expire on [September 30, 2007].

h. The [unmarried] surviving spouse of an eligible veteran who died as a result of service or service-connected injuries may also be eligible for a VA-guaranteed loan.

i. The spouse of an active duty service member who is missing in action or who is a prisoner of war may be eligible.

j. Eligibility may also be established for certain other individuals, such as Public Health Service officers, cadets/midshipmen at service academies, officers of National Oceanic and Atmospheric Administration, merchant seamen with World War II service, and others.

k. Specific questions on veterans' eligibility matters should be referred to the VA regional office.

l. The following chart summarizes the above information on minimum qualifying service time for the periods of active duty:

<u>Era</u>	<u>Dates</u>	<u>Length of Service</u>
WW II	9/16/40 - 7/25/47	90 days
Peacetime	7/26/47 - 6/26/50	181 continuous days
Korean	6/27/50 - 1/31/55	90 days
Post Korean	2/01/55 - 8/04/64	181 continuous days
Vietnam	8/05/64 - 5/07/75	90 days
Post Vietnam	5/08/75 - 9/07/80	181 continuous days
Enlisted:	9/08/80 - 8/01/90	2 years
Officers:	10/17/81 - 8/01/90	2 years
Persian Gulf	8/02/90 - undetermined	2 years or period called to active duty, not less than 90 days

[Unmarried Surviving Spouse] - eligibility is based on spouse's basic qualification.

Spouse of POW/MIA - eligibility is based on spouse's basic qualification.

2.03 ELIGIBILITY APPLICATIONS

VA Form 26-1880, [Request for a Certificate of Eligibility for VA Home Loan Benefits], is used to apply for VA Forms 26-8320 or 26-8320a, Certificate of Eligibility for Loan Guaranty Benefits. Instructions for completion and proof of military service requirements are provided on the reverse side of VA Form 26-1880. Since there is no standard military document to clearly indicate qualifying service of individuals applying as members of the Selected Reserve, applicants should be advised to consult with the nearest VA regional office to determine the documentation needed for an eligibility determination. [Unmarried] surviving spouses must submit VA Form 26-1817, Request for Determination of Loan Guaranty Eligibility - [Unmarried] Surviving Spouses, in lieu of VA Form 26-1880.

2.04 DURATION OF THE PROGRAM

The entitlement of individuals whose eligibility is based on 6 years service in the Selected Reserve expires on [September 30, 2007] (see par. 2.02g). Loan entitlement derived from all other eligible periods of service is good until used. No delimiting date exists.

2.05 VETERAN'S LIABILITY

A veteran is personally liable for repayment of the loan unless he or she obtains a release from liability from VA. For loans that were committed to be made after March 1, 1988, the approval of the loan holder or VA must be obtained before a VA-guaranteed loan can be transferred or assumed. An application for a release from liability must be requested from the VA office that guaranteed the loan. If the buyer assumes all of the veteran's liabilities on the VA loan and meets VA income and credit standards, the veteran may be released from liability. A release from liability does not restore a veteran's entitlement.

2.06 RESTORATION OF ENTITLEMENT

a. Restoration of previously-used entitlement may be applied for if the following conditions are met: the property has been sold and the loan has been paid in full, or a qualified veteran-transferee has agreed to assume the outstanding balance on the loan and agrees to substitute his or her entitlement for the same amount of entitlement originally used for the loan. The assuming veteran must also meet the occupancy, income and credit requirements of the law. Also, a veteran's prior use of entitlement may be excluded if the prior loan has been paid in full and the veteran has made application for a loan to be secured by the same property which secured the prior loan obtained by the veteran. This includes the payoff of an existing VA loan by way of a VA refinancing loan on the same property.

b. ONE TIME ONLY, if a veteran has repaid the prior VA loan in full, but has not disposed of the property securing that loan, the veteran's entitlement used in connection with that loan may be restored. Once such a restoration of entitlement has been done, the veteran's Certificate of Eligibility will bear an annotation that states: "Entitlement previously used in connection with (loan #) has been restored without disposal of the property, under provision of 38 U.S.C. 3702b(4). Future restoration requires disposal of the property financed with that loan." VA records will also be annotated that the veteran has used the one time opportunity to restore entitlement without disposing of the property.

2.07 MISUSE OF VETERAN'S ENTITLEMENT

a. A basic requirement of law for VA's guaranty of loans for the purchase or construction of dwellings is that the veteran has a bona fide intention of occupying the property as a home. An entitlement is not being used properly if the veteran arranges to sell or convey the property to a third party prior to the closing of the loan.

b. From time to time, cases are brought to VA's attention in which a veteran had no intention when the loan was made of occupying the property as his or her home. Generally, the veteran who was a party to this illegal practice was induced to obtain a guaranteed loan by persons who were fully cognizant of the seriousness of the offense. Therefore, when VA learns that the veteran-purchaser transferred title to a home within 90 days after loan closing, VA will determine the circumstances involved in the transfer. If it is found that a sale of the veteran's entitlement was involved, the matter will be referred to the Office of the Inspector General for investigation.

2.08 CERTIFICATE OF VETERAN STATUS - FHA LOANS

Under section 203(b)(2) of the National Housing Act, veterans are accorded slightly better terms than nonveterans when obtaining FHA mortgage financing. VA Form 26-8261, Certificate of Veteran Status, is issued by VA as evidence of entitlement to benefits under this Act.

a. Qualifying Service. Generally, eligibility for the certificate of veteran status may be established by:

(1) Active duty in the Armed Forces of the United States; or

(2) Active duty or active duty for training in a Reserve component of any branch of the Armed Forces; or